

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CV 14

1483

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

2014 MAR -5 PM 3:40

FILED
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KAITLIN MCGUIRE,

Plaintiff

COGAN, J.

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT, DETECTIVE JULIO MICHELI,
NEW YORK CITY POLICE OFFICERS, John Doe 1,
John Doe 2, John Doe 3, John Doe 4,
John Doe 5, John Doe 6, John Doe 7,
John Doe 8, John Doe 9 and John Doe 10 the
names being fictitious,

VERIFIED COMPLAINT

Defendants.
-----x

Plaintiff herein, by her attorneys, Ross and Hill,
complaining of the above-named defendants, alleges the following
upon information and belief.

1. That plaintiff is a citizen of the United States of
America and is entitled to the full protection of the laws and the
Constitution of the United States of America.

2. Defendant, The City of New York, is a municipal
corporation duly incorporated and existing under and by virtue of
the laws of the State of New York.

3. The Police Department of The City of New York is an
agency acting on behalf of The City of New York and engaged by The
City of New York to perform police duties and to protect the
health, welfare, property and safety of the residents of The City
of New York.

4. That at all times herein mentioned defendant,
Detective Julio Micheli, was a New York City police Officer
employed by defendant The City of New York and a participant in the

arrest of plaintiff on October 4, 2012 at premises 73 Harman Street Brooklyn, New York.

5. At all times herein mentioned, defendant, John Doe 1, was a New York City Police officer, employed by defendant The City of New York. John Doe 1 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

6. At all times herein mentioned, defendant, John Doe 2, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 2 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

7. At all times herein mentioned, defendant, John Doe 3, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 3 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

8. At all times herein mentioned, defendant, John Doe 4, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 4 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

9. At all times herein mentioned, defendant, John Doe 5, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 5 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

10. At all times herein mentioned, defendant, John Doe 6, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 6 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

11. At all times herein mentioned, defendant, John Doe 7, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 7 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

12. At all times herein mentioned, defendant, John Doe 8, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 8 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

13. At all times herein mentioned, defendant, John Doe 9, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 9 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

14. At all times herein mentioned, defendant, John Doe 10, was a New York City Police Officer, employed by defendant, The City of New York. John Doe 10 participated in the arrest of plaintiff on October 4, 2012 at premises 73 Harman Street, Brooklyn, New York.

15. This action arises under the laws of the United States, particularly under the Civil Rights Act, Title 42 of the United States Code, Sections 1981, 1983 and 1988.

16. This Court has jurisdiction under the provisions of Title 8 of the United States Code, Sections 1331 and 1338.

AS AND FOR A FIRST CAUSE OF ACTION

17. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 16 of this complaint with the same force and effect as though fully set forth herein at length.

18. On October 4, 2012 at approximately 3:30 p.m. while plaintiff was on the second floor of 73 Harman Street, Brooklyn, New York, she was arrested by New York City Police Officers employed by defendant, The City of New York.

19. The arrest of plaintiff was without reasonable or just cause.

20. Plaintiff was placed in handcuffs and taken to the 83rd Precinct, where she was processed and placed in a cell.

21. Plaintiff was falsely charged with possession of a firearm and possession of marijuana.

22. Upon information and belief, plaintiff was arraigned on October 5, 2012, and a bail amount was set by the presiding judge. She remained in prison until December 11, 2012 when all charges against her were dismissed.

23. The arrest, imprisonment and criminal prosecution of plaintiff constituted a violation of plaintiff's civil rights under 42 USC, Sections 1981 and 1983.

24. The conduct of the defendant police officers, violated the constitutional rights of plaintiff: to be secure in her person; to be free of unreasonable searches and seizure; not to be deprived of life, liberty or property without due process of law; not to be subjected to cruel and unusual punishment; to be informed of the nature and cause of the accusation against her; the right to equal protection.

25. Upon information and belief, the defendant officers entered the 2nd floor of 73 Harman Street without a warrant enabling

officers to enter that unit and without lawful authority to do so. Defendants, The City of New York, New York City Police Department, and their agents, including the Command of the 83rd precinct and the 547 Command sanctioned illegal entry onto private property without a valid warrant and without authority to do so, and sanctioned and had a policy in place of permitting such illegal entries and the seizure of persons therein without authority or valid cause to do so. There was also a policy in place that officers engaged in such unauthorized searches and seizures were not subject to discipline or other adverse action by the city of New York, the New York City Police Department, or their agents in the Command of the 83rd Precinct and the 547 Command.

26. The actions of the defendants as aforesaid were carried out under color of State law.

27. Upon information and belief, during her prosecution in Criminal Court, based on statements of defendant police officers false representations were made to the Court that plaintiff's arrest was pursuant to a valid search warrant. As a result of these false representations, plaintiff's criminal case was adjourned several times so that the search warrant could be provided. During the entire time her criminal case was pending, plaintiff remained in jail.

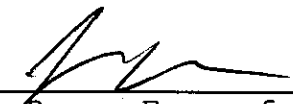
28. The unlawful entry into the apartment plaintiff was staying in, her arrest, arraignment, indictment and prosecution was wanton, cruel, careless, malicious and reckless and evinced a depraved disregard for plaintiff and for plaintiff's rights.

29. As a result of the foregoing, plaintiff sustained

severe personal injuries.

30. As a result of the foregoing, plaintiff has been damaged in the amount of Five Million (\$5,000,000.00) Dollars in compensatory damages and One Million (\$1,000,000.00) Dollars in punitive damages and is entitled to an award of attorney fees in an amount to be determined by the Court.

WHEREFORE, plaintiff demands judgment against defendants: compensatory damages in the sum of \$5,000,000.00; \$1,000,000.00 in exemplary damages and an amount to be determined by the Court for attorneys' fees; and other costs involved in prosecuting this action.



James Ross, Esq. of
ROSS AND HILL, ESQS.
16 Court Street
35th Floor
Brooklyn, New York 11241
718-855-2324
Attorneys for Plaintiff

STATE OF NEW YORK, COUNTY OF KINGS) s.s.:

I, the undersigned, an attorney duly admitted to practice law in the Courts of this State, state that I am a Partner in the firm of Ross and Hill, Esqs., attorneys of record for plaintiff(s) in this action; I have read the foregoing **COMPLAINT** and know the contents thereof; the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief and, as to those matters, I believe it to be true.

The reason this verification is made by me and not by the plaintiff(s) is that plaintiff(s) is presently outside the County in which your affirmant maintains offices.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows: consultation with plaintiff(s), investigative reports, memoranda and other data in the file concerning the subject matter of the within litigation.

I affirm the foregoing statements are true, under the penalty of perjury.

Dated: Brooklyn, New York
March 5, 2014


James F. Ross, Esq.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KAITLIN MCGUIRE,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE
DEPARTMENT, DETECTIVE JULIO MICHELI,
NEW YORK CITY POLICE OFFICERS, John Doe 1,
John Doe 2, John Doe 3, John Doe 4,
John Doe 5, John Doe 6, John Doe 7,
John Doe 8, John Doe 9 and John Doe 10 the
names being fictitious,

Defendants.
-----X

**SUMMONS WITH NOTICE
AND VERIFIED COMPLAINT**
-----X

ROSS & HILL, ESQS.
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